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Ryan, Mason & Lewis, LLP
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EXAMINER

SMITH, SHEILA B

ART UNIT	PAPER NUMBER
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2617

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/736,184

Applicant(s)

BISDIKIAN ET AL.

Examiner

Sheila B. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 12/26/06.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-33 rejected under 35 U.S.C. 102(b) as being anticipated by Pietzold, III et al. (U. S. Patent Number 6,091,765).

Regarding claim 1, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses reconfigurable radio system architecture. In addition Pietzold, III et al. discloses a method of preconditioning a computer-controllable device (this is an inherent feature because the computer controllable device has some type of software programmed on it), the method comprising the steps of: determining at least one anticipated context with which the device may be associated (which reads on “In response to instructions provided from the user input circuit 26, the configuration control system 18 (in response to instructions or commands stored in the configuration memory 14) connects selected ones of a plurality of configurable digital signal processors (CDSP) 20 and 22, and configures the digital IF subsystem 24 in a receiver or transmitter mode of operation with the radio frequency subsystem 12 to function in accordance with the signaling scheme selected by the user”, which reads on column 5 lines 55-60); and determining at least one mode of operation associated with the at least one anticipated context such that the at least one mode of operation may be effectuated before or at a time when the anticipated context is at least

partially realized (which reads on column 5 lines 26-67).

Regarding claim 2, Pietzold, III et al. discloses essentially all the claimed invention as set fourth in the instant application, further Pietzold, III et al. discloses the step of determining at least one action used to enable the at least one mode of operation(which reads on column 7 lines 30-46).

Regarding claim 3, Pietzold, III et al. discloses essentially all the claimed invention as set fourth in the instant application, further Pietzold, III et al. discloses at least one anticipated context comprises at least one of a location, a time, a destination, a power capacity, a policy, and a history associated with the device (which reads on column 5 lines 26-67).

Regarding claim 4, Pietzold, III et al. discloses essentially all the claimed invention as set fourth in the instant application, further Pietzold, III et al. discloses the operation mode determining step further comprises employing at least one parameter used to realize the operation mode (which reads on column 7 lines 30-46).

Regarding claim 5, Pietzold, III et al. discloses essentially all the claimed invention as set fourth in the instant application, further Pietzold, III et al. discloses the at least one parameter is available from at least one of a local store and a remote store (which reads on column 6 lines 51-67 and column 7 lines 1-30).

Regarding claim 6, Pietzold, III et al. discloses essentially all the claimed invention as set fourth

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in the instant application, further Pietzold, III et al. discloses the at least one parameter is available from a Web service (which reads on column 5 lines 26-67).

Regarding claim 7, Pietzold, III et al. discloses essentially all the claimed invention as set fourth in the instant application, further Pietzold, III et al. discloses the operation mode determining step further comprises a consideration of at least one of cost, power, experience, workflow, and coverage associated with the device (which reads on column 7 lines 30-46).

Regarding claim 8, Pietzold, III et al. discloses essentially all the claimed invention as set fourth in the instant application, further Pietzold, III et al. discloses the device comprises a mobile device (which reads on column 5 lines 26-67).

Regarding claim 9, Pietzold, III et al. discloses essentially all the claimed invention as set fourth in the instant application, further Pietzold, III et al. discloses the device comprises a software defined radio (which reads on column 5 lines 26-67).

Regarding claim 10, Pietzold, III et al. discloses essentially all the claimed invention as set fourth in the instant application, further Pietzold, III et al. discloses a method of altering a mode of operation of a system having at least one computer controllable subsystem associated therewith, the method comprising the steps of: responsive to at least one projected context, determining at least one projected mode of operation for the system (which reads on 7 lines 30-46); and responsive to the at least one projected mode of operation, providing at least one

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computer operation for the at least one computer controllable subsystem, the operation enabling the at least one projected mode of operation, such that, responsive to the at least one computer operation, a current mode of operation of the system may be altered to the projected mode of operation (which reads on column 5 lines 26-67).

Regarding claim 11, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses the step of selecting a projected mode of operation, when two or more projected modes of operation are determined (which reads on column 7 lines 30-46).

Regarding claim 12, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses the computer controllable subsystem comprises a communications subsystem (which reads on column 5 lines 26-67).

Regarding claim 13, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses the projected mode of operation is associated with one or more communication capabilities (which reads on column 5 lines 26-67).

Regarding claim 14, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses the communications subsystem comprises a software defined radio (which reads on column 5 lines 26-67).

Regarding claim 15, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses the step of providing at least one computer operation further comprises a service discovery process (which reads on column 5 lines 26-67).

Regarding claim 16, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses a method of obtaining protocol information for a software defined radio (SDR), the method comprising the steps of: determining a projected context associated with the SDR; responsive to the projected context (which reads on 7 lines 30-46), determining at least one parameter related to a communication protocol for use by the SDR; and providing an indicator of the at least one parameter such that the at least one parameter may be employed (which reads on column 5 lines 26-67).

Regarding claim 17, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses the step of obtaining multiple protocols (which reads on column 5 lines 26-67).

Regarding claim 18, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses determining a projected context is responsive to at least one of an SDR user calendar, an SDR user data entry, a current context, a workflow, and an SDR user history (which reads on column 7 lines 30-46).

Regarding claim 19, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses the current context comprises at least one of a current location, an indicator of remaining battery power, one or more current protocol settings, and current latency experienced (which reads on column 5 lines 26-67).

Regarding claim 20, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses determining a projected context based on a current location comprises use of a projected location (which reads on column 7 lines 30-46).

Regarding claim 21, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses determining at least one parameter comprises optimizing at least one of an end-to-end cost, latency, and security (which reads on column 6 lines 51-67 and column 7 lines 1-30).

Regarding claim 22, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses determining at least one parameter comprises use of at least one of an algorithm, a database lookup, and a Web service (which reads on column 5 lines 26-67).

Regarding claim 23, Pietzold, III et al. discloses essentially all the claimed invention as set

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fourth in the instant application, further Pietzold, III et al. discloses the algorithm provides optimization of at least one of a cost to user, a battery life, and a latency (which reads on column 5 lines 26-67).

Regarding claim 24, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses determining at least one parameter is further responsive to at least one of a user policy, an owning enterprise policy, and a security policy (which reads on column 7 lines 30-46).

Regarding claim 25, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses providing an indicator comprises at least one of providing a protocol download, a parameter download, a uniform resource locator, a parameter address, an identifier, an Internet Protocol address, a diskette, a control string and an indicator to a device that an update is available for download (which reads on column 6 lines 51-67 and column 7 lines 1-30).

Regarding claim 26, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses providing an indicator is performed wirelessly (which reads on column 5 lines 26-67).

Regarding claim 27, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses providing an indicator

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comprises providing an indicator to a device associated with the SDR (which reads on column 5 lines 26-67).

Regarding claim 28, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses the at least one parameter is operative to select between network providers (which reads on column 6 lines 51-67 and column 7 lines 1-30).

Regarding claim 29, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses a method of obtaining protocol information for a software defined radio (SDR), the method comprising the steps of: receiving an indicator of a target of communication; responsive to the target indicator (which reads on column 7 lines 30-46), determining at least one parameter related to a communication protocol for use by the SDR (which reads on column 6 lines 51-67 and column 7 lines 1-30); and providing an indicator of the at least one parameter such that the at least one parameter may be employed (which reads on column 5 lines 26-67).

Regarding claim 30, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses receiving an indicator of target includes at least one of receiving a telephone number, receiving an Internet Protocol address, and a data type (which reads on column 5 lines 26-67).

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Regarding claim 31, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses a computer-controllable device, comprising: a memory; and at least one processor coupled to the memory and operative to: (i) determine at least one anticipated context with which the device may be associated; and (ii) determine at least one mode of operation associated with the at least one anticipated context such that the at least one mode of operation may be effectuated before or at a time when the anticipated context is at least partially realized (which reads on column 5 lines 26-67).

Regarding claim 32, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses an article of manufacture for preconditioning a computer-controllable device, comprising a machine readable medium containing one or more programs which when executed implement the steps of: determining at least one anticipated context with which the device may be associated (which reads on 7 lines 30-46); and determining at least one mode of operation associated with the at least one anticipated context such that the at least one mode of operation may be effectuated before or at a time when the anticipated context is at least partially realized (which reads on column 5 lines 26-67).

Regarding claim 33, Pietzold, III et al. discloses essentially all the claimed invention as set forth in the instant application, further Pietzold, III et al. discloses communications system, comprising: a software defined radio (SDR); and an SDR-enabled device; wherein, responsive to at least one projected context, at least one projected mode of operation for the system is

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determined in accordance with the SDR-enabled device and (which reads on column 6 lines 51-67 and column 7 lines 1-30), responsive to the at least one projected mode of operation, at least one computer operation is provided for the SDR, the operation enabling the at least one projected mode of operation, such that, responsive to the at least one computer operation, a current mode of operation of the system may be altered to the projected mode of operation (which reads on column 5 lines 26-67).

Response to Arguments

2. Applicant's arguments filed 12/26/06 have been fully considered but they are not persuasive.

Regarding Independent claim 1 recites a method of preconditioning a computer-controllable device. The method comprises determining at least one anticipated context with which the device may be associated, and determining at least one mode of operation associated with the at least one anticipated context such that the at least one mode of operation may be effectuated before or at a time when the anticipated context is at least partially realized. The Applicants respectfully disagree with the Examiner with regard to claim 1 as being anticipated by Pietzold. Specifically, Applicants respectfully disagree that Pietzold discloses the concepts of "preconditioning" and "anticipated context." Both of these terms apply to events or conditions that are expected in the future. Both of these terms refer to action/operations occurring at the present time in preparation (preconditioning) of operational modalities that the device will experience at some future time (anticipated context). For example, FIG. 2 of the present application contains an extensive, yet not exhaustive, collection of anticipated contexts 200 that can be considered. The examiner contend that the art of record discloses "The system includes

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a non volatile memory that is adapted to receive and store instructions for configuring the system. A user selects the mode of operation and the signaling scheme, and instructions and software are downloaded from the memory into the system and configure the system as selected by the user" which reads on precondition of a computer controllable device.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

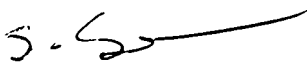
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila B. Smith whose telephone number is (571)272-7847. The examiner can normally be reached on Monday-Thursday 6:00 am - 3:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S. Smith 
September 18, 2006


JOSEPH FEILD
SUPERVISORY PATENT EXAMINER